

Chapter 18.54

CONDITIONAL AND TEMPORARY USE PERMITS

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Article I. Conditional Use Permits

18.54.010 Purpose of permits.

The purpose of conditional use permits is to allow a proper integration into the community of uses which may only be suitable in specific locations in a zoning district, or only if such uses are designed or laid out in a particular manner on the site or are subjected to specific conditions. In

addition, in select locations, control as to design of structures and site layout is necessary to assure compatibility within the district and its surroundings. (Ord. 559 N.S. § A (part), 1981)

18.54.020 Required when.

A conditional use permit shall be required for all uses or development proposals listed as conditional uses in the district regulations, or elsewhere in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.54.030 Application--Contents.

Application for a conditional use permit shall be made by the property owner or agent thereof on a form prescribed by the city, and shall be accompanied by the following submittal requirements except as may be waived by the community development director for proposed uses in existing structures:

- A. Vicinity map;
- B. Site plan;
- C. Floor plan;
- D. Building elevations;
- E. Signing and landscape plan;
- F. Statement of proposed operations.
- G. Other materials required by the Santa Clara County hazardous waste management plan or its city-designated equivalent, if an application is for a hazardous materials processing use in an industrial zoning district. (Ord. 1104 N.S. § 1 (Exh. A)(part), 1992; Ord. 559 N.S. § A (part), 1981)

18.54.035 Application Process--Hazardous Materials Reprocessing Uses

Where a conditional use permit application is for a hazardous materials reprocessing use, additional steps of notification will be required by the city, including yet not limited to:

- A. When required by Health & Safety Code Section 25199 et seq., filing of a Notice of Intent (NOI) to make an application with the California Office of Permit Assistance, which shall be published in a local newspaper of general circulation; and shall be posted on the subject property at least 90 days before the scheduled Planning Commission hearing;

- B. Completion of a risk assessment checklist supplied by the city;
- C. Formation of a local assessment committee, when required pursuant to Section 25199.7(d) of the California Health and Safety Code; such committee to have technical assistance and consulting services as determined by the city, with all such costs to be paid by the applicant. (Ord. 1104 N.S. § 1 (Exh. A)(part), 1992)

18.54.040 Application--Planning commission considerations.

In considering an application for a conditional use, the planning commission shall consider the following:

- A. The suitability and adequacy of the site for the proposed use;
- B. The estimated effect of the proposed use or design on traffic circulation and on the planned capacity of the street system;
- C. The compatibility of design with adjacent uses within the district and its surroundings;
- D. The applicability and conformity of the use with provisions of Chapter 8.40, hazardous materials, as existing or hereafter amended. (Ord. 847 N.S. § 3, 1987; Ord. 559 N.S. § A (part), 1981)

18.54.050 Application--Action by planning commission.

A. Upon concluding its evaluation of a proposed conditional use, the planning commission may either deny the application or approve it with such conditions as it deems necessary. Such action shall be communicated to the applicant in writing and, if favorable, shall be the basis for subsequent issuance of the conditional use permit by the community development director.

- B. The planning commission shall approve the application only if it finds that:
 - 1. The site is suitable and adequate for the proposed use;
 - 2. The proposed use and design would not have a substantial adverse effect in traffic circulation and on the planned capacity of the street system;
 - 3. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site, or
 - c. Be detrimental to public health, safety or general welfare; and

4. The design of the project is compatible with existing and proposed development within the district and its surroundings. (Ord. 1307 N.S. § 8, 1996; Ord. 899 N.S. § 7, 1989; Ord. 715 N.S. § 2, 1985; Ord. 559 N.S. § A (part), 1981)

18.54.060 Issuance.

The community development director shall be responsible for issuance of conditional use permits which have been approved by resolution of the planning commission. (Ord. 559 N.S. § A (part), 1981)

18.54.070 Expiration--Extensions.

A. Approvals of conditional use permit applications shall be valid for either one year from the date of approval, or the time specified in the approval. However, at any time within the stated period, the approval may be extended by the planning commission upon the applicant requesting in writing such extension and paying the established fee.

B. Following commencement of use and except where the permit has been approved for a specified period, the effectiveness of the permit shall be for an indefinite period. For the purpose of this section, "commencement of use" means when actual substantial continuous activity has taken place upon the land pursuant to the permit, or, in the event the erection of a structure or structures is involved, when sufficient building activity has occurred to cause vested rights to accrue under the general principles of state law relating to the vesting of rights in connection with building permits generally. Any issue, doubt or controversy regarding "commencement of use" shall be referred to the planning commission for decision and determination. (Ord. 559 N.S. § A (part), 1981)

18.54.080 Permits attached to land.

A conditional use permit shall be considered attached to and running with the land. (Ord. 559 N.S. § A (part), 1981)

18.54.090 Annual review--Revocation of permits.

A conditional use permit approval shall be reviewed annually by the community development department for compliance of all conditions imposed thereon. Should the department find any conditions of the use permit unsatisfied, the owner of the property shall be notified thereof, and shall be given thirty days' notice to correct such use permit violations. Failure to correct the violations within such period of time shall result in action to revoke the use permit subject to a public hearing before the planning commission or a hearing officer appointed by the Planning Commission. All actions of the planning commission or hearing officer in this matter shall be final unless appealed to the city council under Section 18.64.030 of this chapter. (Ord. 1323 N.S. § 22, 1997; Ord. 559 N.S. § A (part), 1981)

Article II. Temporary Use Permits

18.54.100 Purpose.

The purpose of temporary use permits is to allow uses of a temporary nature on private property to exist for a specified length of time, in a manner which will not adversely impact the general welfare of persons residing in the community.

Uses on public property must conform to Chapter 12.16, events on public property. (Ord. 866 N.S. § 2, 1988; Ord. 847 N.S. § 4, 1987; Ord. 559 N.S. § A (part), 1981)

18.54.110 Application--Contents.

Any person wishing to establish a temporary use shall submit an application to the community development department (CDD). The application shall be accompanied by a site plan, showing the layout for the proposed use, and other plans as deemed necessary by the CDD. A

statement of proposed operations shall also be submitted. Such applications should be filed at least one month prior to the operation of the proposed use. (Ord. 1323 N.S. § 23, 1997; Ord. 866 N.S. § 3, 1988)

18.54.120 Application--Processing and approval.

The community development director shall be authorized to approve, conditionally

approve or deny TUP applications.

Upon approving a TUP, the CDD shall notify the applicant in writing, listing all conditions of the approval.

Approval of a temporary use permit shall not be interpreted as relieving the applicant of any other city standard, regulation and/or requirement as stated in this title.

Appeals of action taken by the CDD shall be heard by the planning commission. Appeals shall be processed pursuant to Chapter 18.64 of this title.

The use will be in conformance with all the requirements of the hazardous materials ordinance codified in Chapter 8.40, as existing or hereafter amended. (Ord 1323 N.S. § 24, 1997; Ord. 899 N.S. § 20, 1989; Ord. 866 N.S. § 4, 1988)

18.54.130 Cash deposit.

Any TUP that physically changes, alters and/or temporarily improves a site, shall be required to post a cash deposit of five hundred dollars (or as otherwise noted), prior to its approval. This is intended to defray the cost of clean up of a site by the city in the event the applicant fails to leave the property in a presentable and satisfactory condition, or to guarantee removal and/or reconversion of any temporary use or structure. The cash deposit may be waived by the community development director, if determined to be an unnecessary hardship. (Ord. 866 N.S. § 5, 1988)

18.54.140 Signage.

All temporary uses shall conform to the requirements of the city sign ordinance for temporary signs, per Section 18.76.130. (Ord. 866 N.S. § 6, 1988)

18.54.150 Hold harmless agreement.

The applicant shall agree in writing to hold harmless the city, its officers, agents, and employees from any liability or claims for damages on account of injury to any person, loss of life, or damage to property caused by, or arising out of activities authorized by a TUP. (Ord. 866 N.S. § 7, 1988)

18.54.160 Permits required.

An application for a TUP shall be required for the following uses and shall be subject to the conditions contained thereafter. Additional conditions may be required by the community development director. The community development director may exempt a temporary use from the provisions of this article when it is determined the temporary use is incidental in nature, and will not create any adverse impacts. Such uses include: sales of tickets, candy or food items, at shopping centers, restaurants or similar places, or other similar uses as approved by the community development director. Temporary flower sales are prohibited.

A. Parking Lot/Sidewalk Sales. Such uses shall be limited to seven days in any one-hundred-eighty-day period. The use must be located upon commercially designated property.

B. Arts and Crafts Show. Such uses shall be limited to seven days in any one-hundred-eighty-day period.

C. Fundraising Events. Such uses shall be limited to two days in any thirty-day period.

D. Christmas Tree or Pumpkin Sales Lots. All such uses shall be limited to forty-five days per calendar year. The project site shall be left in a clean and debris-free state. All lighting shall be directed away from adjacent properties and public rights-of-way.

Adequate provisions for traffic circulation, controlled ingress and egress, off-street parking and pedestrian safety shall be provided to the satisfaction of the community development department.

E. Seasonal Sale of Agricultural Goods. All such uses shall be limited to ninety days per calendar year, not to exceed thirty consecutive days. The project site shall be left in a clean and debris-free state. All lighting shall be directed away from adjacent properties and public rights-of-way.

Adequate provisions for traffic circulation, controlled ingress and egress, off-street parking and pedestrian safety shall be provided to the satisfaction of the community development department.

F. Traveling Amusements (Carnivals, Rodeos, Etc.). All such uses shall be limited to not more than fifteen days, or more than three weekends, of operation in any one-hundred-eighty-day period. All such uses shall have a minimum setback of one hundred feet from any residential district or use.

Adequate provisions for traffic circulation, off-street parking and pedestrian safety shall be provided to the satisfaction of the community development department, including accommodations for deliveries and employee parking. Rest room facilities shall be provided.

All lighting shall be directed away from adjacent properties and public rights-of-way. Noise attenuation for generators and carnival rides shall be provided to the satisfaction of the community development department.

G. Model Home Complexes for Residential Subdivisions and Leasing Offices for Commercial and Industrial Projects. Such uses shall be for a two-year period or thirty days from the close of escrow of the final unit, whichever comes first or thirty days from the final initial lease. The sales/leasing office shall be located in a garage, trailer, dwelling unit or tenant space. The sales office is to be used only for the transactions involving the sale of dwelling units and/or lots of the tract in which the complex is located, or for the leasing of tenant space within that project. All other uses are strictly prohibited.

Street improvements and temporary off-street parking at a rate of two spaces per model (four spaces for a leasing office) shall be installed prior to the commencement of sales or leasing activities and before the display of the model homes. All fencing associated with the model homes complex shall be located outside the public right-of-way.

A cash deposit of one thousand five hundred dollars shall be posted to cover the reconversion of the models for occupancy. A cash deposit of one thousand dollars shall be posted for leasing offices. All reconversions, removals or installations shall be completed within thirty days from the close of escrow of the final unit or final initial lease. There shall be no use of flags or banners in conjunction with the sales office for which this permit is being issued.

H. Trailers and RV's.

1. A trailer, RV or modular unit may be used for security personnel, temporary storage, temporary office or other uses or for temporary residence of the subject property owner, when located on an active construction site within a residential zone. Installation of a trailer or RV may occur only after a valid building permit has been issued by the chief building official.

2. A trailer, RV or modular unit may be used for any of the purposes specified in subsection one above in any non-residential zone with the approval of the community development department.

3. A temporary trailer or RV may remain for a period of one year. A six-month extension may be granted by the community development director. Under no circumstances shall a temporary trailer or RV remain for a period exceeding one and one half years.

4. Trailers or RV's pursuant to this permit shall not exceed a maximum of six hundred fifty square feet. Their location upon the site shall meet the approval of the community development department and meet all the standards (setbacks, parking, etc.) of the base zoning district. Trailers or RV's must have valid vehicle licenses and shall meet all requirements and regulations of the county department of health services and the chief building official.

I. Promotional Sales. Promotional sales, retail sales of items not typically sold from premises, shall be permitted not to exceed twenty-four days per calendar year. Such uses must locate upon developed commercial property with approval of property owner.

J. Any other temporary use which the community development director finds to be of similar nature to, or is listed as, a permitted or conditional use for the zone in which the temporary

use would locate. The community development director may allow for a temporary use for a duration of one year or less and may place conditions on the use to assure maintenance of the public health, safety and welfare. (Ord. 1415 N.S. § 39, 1998; Ord. 1215 N.S. § 53, 1995; Ord. 1055 N.S.

§ C (part), 1991; Ord. 866 N.S. § 8, 1988)